



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

BRISCOE et al.

Atty. Ref.: 36-1382

Serial No. 09/674,717

TC/A.U.: 2667

Filed: November 6, 2000

Examiner: Jones, P.

For: COMMUNICATIONS NETWORK

* * * * *

September 1, 2005

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT

Listed on accompanying Form PTO/SB/08A are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached form PTO/SB/08A based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on

the material submitted herewith. It is further understood that the Examiner will consider information that had been cited by or submitted to the U.S. Patent and Trademark Office in a prior application relied on under 35 U.S.C. § 120. 1138 OG 37, 38 (May 19, 1992).

Applicants have checked the appropriate boxes below.

1. ☒ This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits. No statement under 37 C.F.R. § 1.97(e) or fee is required. In the event, a first Office Action has been mailed prior to filing of the present Information Disclosure Statement, the Office is requested to treat the present paper s a submission under 37 C.F.R. § 1.97(c) and charge the undersigned's Deposit Account No. 14-1140 for the fee required by 37 C.F.R. § 1.17(p). The present paper is submitted in duplicate for this purpose.

2. ☐ This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.

a. ☐ I hereby state that each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

b. ☐ I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

c. ☐ Attached is our Check No. in the amount of \$ in payment of the fee under 37 C.F.R. § 1.17(p).

3. ☐ This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice

of Allowance, but before payment of the Issue Fee. It is hereby requested that the Information Disclosure Statement be considered. Attached is our Check No. in the amount of \$ in payment of the fee under 37 C.F.R. § 1.17(i).

- a. ☐ I hereby state that each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).
- b. ☐ I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).
4. ☐ Relevance of the non-English language document(s) is discussed in the present specification.
5. ☒ Some of the documents were cited in a corresponding foreign application (AU 41575/99). An English language version of a communication issued in the corresponding foreign application is attached for the Examiner's information. Document No. WO 98/58474 corresponds to AU-A-80503/98 cited in the AU 41575/99 application.
6. ☐ A concise explanation of the relevance of the non-English language document(s) appears below:
7. ☒ The Examiner's attention is directed to co-pending U.S. Patent Application Nos. 09/674,706, filed November 6, 2000, (copy attached), 09/674,720, filed November 6, 2000 (copy attached) and 10/276,863, filed November 20, 2002 (published as US 2003/0154174 on August 14, 2003, copy attached) which are directed to related technical subject matter. The identification of these U.S. Patent Applications is not to be construed as a waiver of secrecy as to that application now or upon issuance of the present

application as a patent. The Examiner is respectfully requested to consider the cited applications and the art cited therein during examination.

8. ☐ Copies of the documents were cited by or submitted to the Office in Application No. , filed , which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).

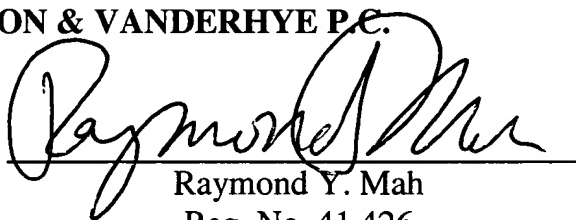
It is respectfully requested that the Examiner initial and return a copy of the enclosed FORM PTO/SB/08A, and to indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 14-1140 referencing docket number 36-1382.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:


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**INFORMATION DISCLOSURE
CITATION**

ATTY. DOCKET NO.

Serial No.

36-1382

09/674,717

APPLICANT

BRISCOE et al.

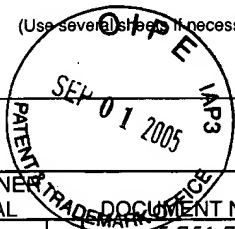
FILING DATE

TC/A.U.

November 6, 2000

2667

(Use several sheets if necessary)


U.S. PATENT DOCUMENTS

*EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	5,751,799	05/1998	MORI			
	4,756,019	07/1988	SZYBICKI			
	6,625,657	09/2003	BULLARD			
	6,005,926	12/1999	MASHINSKY			
	6,144,727	11/2000	MASHINSKY			
	6,542,588	04/2003	MASHINSKY			
	6,226,365	05/2001	MASHINSKY			
	5,067,149	11/1991	SCHNEID et al.			
	6,351,737	02/2002	WILLIAMS			
	6,714,979	03/2004	BRANDT et al.			
	6,324,522	11/2001	PETERSON et al.			
	6,108,330	08/2000	BHATIA et al.			
	6,128,601	10/2000	VAN HORNE et al.			
	6,118,768	09/2000	BHATIA et al.			
	6,154,445	11/2000	FARRIS et al.			
	4,896,319	01/1990	LIDINSKY et al.			
	6,098,878	08/2000	DENT et al.			
	5,978,456	11/1999	TAKEUCHI et al.			
	6,032,132	02/2000	NELSON			
	6,088,659	07/2000	KELLEY et al.			
	US-2001/0051951	12/2001	NISHIKAWA			
	US-2004/0024717	02/2004	SNEERINGER			
	US-2002/0091574	07/2002	LEFEBVRE et al.			

FOREIGN PATENT DOCUMENTS

DOCUMENT	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES NO
98/58474	12/1998	WIPO			x
2311439 A	09/1997	GREAT BRITAIN			x
0837578 A	04/1998	EUROPE			ABSTRACT
0917336 A2	05/1999	EUROPE			ABSTRACT
4241434 A1	06/1994	DENMARK			x
99/65183	12/1999	WIPO			x
0734144 A2	03/1996	EUROPE			x
01/69453 A1	09/2001	WIPO			x

OTHER DOCUMENTS (including Author, Title, Date, Pertinent pages, etc.)

Sloman et al.; "Domain Management and Accounting in an International Cellular Network"; BNSDOCID: <XP199363A, 4/93, pages 193-204
Kaltenmorgen, KLEINWILLINGHOFER-KOPP: "Verkehrskontrolle in ATM-Netzen"; Der Fernmelde Ingenieur, Vol. 46, No. 1, January 1992, pages 1-33, XP000407119

*Examiner

Date Considered

Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to application.

**INFORMATION DISCLOSURE
CITATION**

ATTY. DOCKET NO.

Serial No.

36-1382

09/674,717

APPLICANT

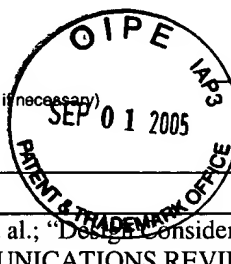
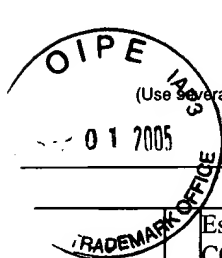
BRISCOE et al.

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	Estrin et al.; "Design Considerations for Usage Accounting and Feedback in Internetworks"; COMPUTER COMMUNICATIONS REVIEW, Vol. 20, No. 5, 1 October 1990, pages 56-66, XP000167877
	Mackie-Mason et al; "Pricing Congestible Network Resources"; IEEE JOURNAL ON SELECTED AREAS IN COMMUNICATIONS, Vol. 13, No. 7, 1 September 1995, pages 1141-1149, XP000577206
	Murphy et al.; "Feedback and Efficiency in ATM Networks"; 1996 IEEE INTERNATIONAL CONFERENCE ON COMMUNICATIONS (ICC), CONVERGING TECHNOLOGIES FOR TOMORROW'S APPLICATIONS, Dallas, June 23-27, 1996, Vol, 2, pages 1045-1049, XP000625931, INSTITUTE OF ELECTRICAL & ELECTRONICS ENGINEERS
	Hidano; "A Practical and Economical Approach to Resource Allocation"; 1997 IEEE 47 TH VEHICULAR TECHNOLOGY CONFERENCE, PHOENIX, May 4-7, 1997, Vol, 3, No. CONF. 47, 18 November 1996, pages 1107-1113, XP000741599
	Johnson, Johna Till; "Cisco Serves Up a Wealth of Functions"; DATA COMMUNICATIONS; May 21, 1992; 21; 8; ABI/INFORM Global; pages 41-42
	Hannington, Stephen; "Price Cuts and New Lines to Catch the Customers"; THE TIMES; London (UK); November 17, 1997; pages 1-3
	Anonymous; "Lucent Delivers High-Capacity Optical Networking Equipment to Increase Bandwidth on NTT's Network"; FIBER OPTICS WEEKLY UPDATE; Boston; June 5, 1998, Volume 18; Issue 23, pages 6; 2 pages
	Lim, Wendy; "Call to Operators on Roaming Services"; [Shipping Times Edition]; Business Times; Kuala Lumpur; June 5, 1998; pages 1; 2 pages
	Bowman, C. Douglas; "Innovative Rates: Four Customers, Four Solutions"; Jan. 15, 1996; PUBLIC UTILITIES FORTNIGHTLY; v134n2; pages 25-29
	Ruth et al.; "Usage-Based Cost Recovery In Internetworks"; BUSINESS COMMUNICATIONS REVIEW, US, HINSDALE, IL, Vol. 22, No. 7, 1 July 1992, pages 38-42; XP000577637

*Examiner

Date Considered

Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to application.

BSW SYDNEY

23 JAN 2004

Mail No: 274295			
To	Initials	Action	Date
PRH			

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22 January 2004

Baldwin Shelston Waters
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Your Ref: 30121AUP00

Examiner's report no. 2 on patent application no. 41575/99
by BRITISH TELECOMMUNICATIONS PUBLIC LIMITED COMPANY

Last proposed amendment no. 4

Dear Madam/Sir,

Thank you for the reply of 15 January 2004 to the last report. My report is based on the specification as if amended by the statement of proposed amendments filed with that reply and dated the same. I have considered it and believe that there are lawful grounds of objection to the application as proposed to be amended. These grounds of objection are:

6. I am maintaining objection 3 and 5 for the reasons already given. Your reply indicates that the tariff calculation being "a function of a number of quality parameters" is the new and inventive feature. In figure 13 of WO97/05749 the carrier performance is included in the routing decision. Given that the carrier tariffs are known to the call management system of this citation the PSA would consider the quality of service parameters to be a workshop equivalent to the carrier performance data (see page 26 line 4 to page 33 line 4). Your argument that "letting customer terminals calculate network usage prices themselves based on the current values of quality parameters" is patentably distinct does not appear on the balance of probabilities to be persuasive.

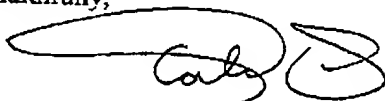
Similar rebuttal arguments are contemplated for the new claims in view of other citations (eg. those cited in the ISR).

7. Claims 1 and 30 are not novel when compared with the following published Australian specification AU-A-80503/98 (TELEFONAKTIEBOLAGET LM ERICSSON) 4 January 1999. The citation discloses the invention defined in the present claims. Although the citation was published later than the priority date of the present claim its information has an earlier priority date than the present claim.

8. Furthermore similar inventive step objections based on new citations ;
US 5751799 (MORI) 12 May 1998
Or US 4756019 (SZYBICKI) 5 July 1988 can be raised against the new claims (especially claim 30). The differences between your claims and the cited art amount to providing at the consumer terminal the information to calculate tariffs based on tariff information including current quality parameters; where such information is clearly already available to certain nodes (eg. the computer of US4756019). Simply put this is merely a policy decision of the network operators not a technical improvement. Any

You have until 23 January 2004 to overcome all my objection(s) otherwise your application will lapse. You will need to pay a monthly fee for any response you file after 12 months from the date of the first report.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Dale E. Siver', enclosed within a large, loopy oval shape.

DALE E. SIVER
Senior Examiner of Patents, Section C4
Telephone: (02) 6283 2196